

SENATE RECORD VOTE ANALYSIS

105th Congress
1st Session

Vote No. 64

May 14, 1997, 9:41 am
Page S-4404 Temp. Record

IDEA (DISABILITY EDUCATION)/Local Control Of Discipline Measures

SUBJECT: Individuals with Disabilities Education Act Reauthorization . . . S. 717. Jeffords motion to table the Gorton amendment No. 243.

ACTION: MOTION TO TABLE AGREED TO, 51-48

SYNOPSIS: As reported, S. 717, the Individuals with Disabilities Education Act (IDEA) Reauthorization, will increase the effectiveness and funding of education for disabled children and will reduce the paperwork and litigation costs of that education.

The Gorton amendment would add the following provision: "Notwithstanding any other provision of this Act, each State educational agency or local educational agency may establish and implement uniform policies with respect to discipline and order applicable to all children within its jurisdiction to ensure the safety and appropriate educational atmosphere in its schools."

Debate was limited by unanimous consent. Following debate, Senator Jeffords moved to table the Gorton amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

Those favoring the motion to table contended:

Our colleagues have proposed this amendment because there have been abuses of the current rules on keeping children with disabilities in the classroom. Disruptive and violent children have been able to use their disabilities as a shield against being suspended, transferred, or expelled, and the safety and quality of education for other children has consequently suffered. Our colleagues' solution is to do away with the rules. If this amendment were to pass, each of the 16,000 school districts in America would be left to decide its own disciplinary procedures. The result would be chaos. Challenges would be made to policies, and courts would reach widely varying decisions on widely varying sets of State and local rules. The uncertainty that would be created on constitutional questions would create a tidal wave of new litigation far in excess of the current amount of litigation. We find it ironic that our colleagues who already think that too many suits are brought under the IDEA have proposed this amendment.

(See other side)

YEAS (51)			NAYS (48)			NOT VOTING (1)	
Republicans (18 or 33%)	Democrats (33 or 75%)		Republicans (37 or 67%)	Democrats (11 or 25%)		Republicans (0)	Democrats (1)
Campbell	Akaka	Kerrey	Abraham	Inhofe	Bryan		Rockefeller- ²
Chafee	Baucus	Kerry	Allard	Kyl	Byrd		
Coats	Biden	Kohl	Ashcroft	Lugar	Conrad		
Collins	Bingaman	Landrieu	Bennett	McCain	Dorgan		
Coverdell	Boxer	Lautenberg	Bond	Murkowski	Feinstein		
Craig	Breaux	Leahy	Brownback	Nickles	Graham		
D'Amato	Bumpers	Levin	Burns	Roberts	Hollings		
DeWine	Cleland	Mikulski	Cochran	Roth	Johnson		
Domenici	Daschle	Moseley-Braun	Enzi	Santorum	Lieberman		
Frist	Dodd	Moynihan	Faircloth	Sessions	Reid		
Hutchinson	Durbin	Murray	Gorton	Shelby	Torricelli		
Jeffords	Feingold	Reed	Gramm	Smith, Bob			
Kempthorne	Ford	Robb	Grams	Smith, Gordon			
Lott	Glenn	Sarbanes	Grassley	Specter			
Mack	Harkin	Wellstone	Gregg	Thomas			
McConnell	Inouye	Wyden	Hagel	Thompson			
Snowe	Kennedy		Hatch	Thurmond			
Stevens			Helms	Warner			
			Hutchison				
						EXPLANATION OF ABSENCE:	
						1—Official Business	
						2—Necessarily Absent	
						3—Illness	
						4—Other	
						SYMBOLS:	
						AY—Announced Yea	
						AN—Announced Nay	
						PY—Paired Yea	
						PN—Paired Nay	

Compiled and written by the staff of the Republican Policy Committee—Larry E. Craig, Chairman

The solution in this bill is much different. Instead of letting children with disabilities be treated differently in different States, it very clearly sets forth the procedures that must be followed. If a child with a disability is found guilty of an offense unrelated to that disability, then that child may be punished under the same rules used for any other child. If the offense is related to the disability, then special steps must be taken to ensure that child's civil rights are protected. Kids with disabilities need special help in order to fit into the mainstream, and they deserve that help as a basic human and constitutional right. That right obviously is not absolute; the other children in the class also have a right to have an orderly and safe environment in which to learn. When disputes arise, due process procedures need to be followed to ensure that rights are protected. In this bill, those procedures are carefully delineated. Special attention was taken to make sure that dangerous situations will be avoided.

The current process has been subject to abuses. The solution in the bill is to fix the current process. The solution offered by the Gorton amendment is to abandon it. The choice is clear. We favor fixing the process, and thus will vote to table the amendment.

Those opposing the motion to table contended:

The Gorton amendment would add 7 lines of text to this 327-page bill. Unlike the 327 pages of detailed mandates to which it would be added, the Gorton amendment would not ignore nondisabled children, nor would it presume to order the States about. Instead, it would inject a little bit of reason into the IDEA by letting each jurisdiction develop its own disciplinary policies.

Current law creates, and this bill perpetuates, a huge double standard between disabled and nondisabled students. For nondisabled students, 16,000 State and local educational agencies decide the individual policies they will follow to create safe and orderly environments for study. Policies vary to meet local needs. Those students have constitutional rights, of course, but the Federal Government does not take that fact to mean that it should send public school principals 300-plus page bills that mandate the procedures they must follow. For disabled students, though, no variation is allowed. Disabled students must be educated in precisely the manner ordered by the Federal Government. Additionally, in its diktats the Federal Government allows only disabled children to be considered when decisions are made within the confines of the rules it has established; a school may not consider the effect either on other students or on costs. Thus, we have two school systems operating in the same classrooms across the country.

Nowhere is the double standard more evident than when it comes to disciplining unruly or dangerous students. Nothing is more basic to a school than having a safe and orderly work environment. Children who are in fear of harm or are surrounded by bedlam cannot learn. We regularly hold town meetings and we also regularly solicit the views of school officials. Invariably, the subject of discipline under the IDEA comes up, and one horror story after another is related. Children with disabilities simply cannot be punished. We are not talking about kids with Downs Syndrome or kids in wheelchairs; we are talking about kids with severe behavioral problems who in many cases are classified as disabled simply because they are repeatedly violent. We are talking about cases such as the young man in an art class who picked up a knife and stabbed a fellow student several times, and then explained that because he had a disability Federal law would only allow him to be suspended for 10 days. We are talking about students who repeatedly injure other students and teachers, yet are returned to the classroom time after time. The letter we received from the superintendent of the Othello School District in Washington is typical: "Already this morning I have received two phone calls from principals asking for advice regarding disciplining disabled students. One student is in possession of a knife for the second time this year, and another middle school student has threatened to kill another student. Each time the principal is faced with one of these situations, s/he should not have to worry about negative consequences for trying to provide a safe environment for all of their staff and students." Unfortunately, principals must worry; if they remove violent or disruptive disabled students from a classroom without following all of the lengthy, required due process and other procedures, they will be sued, and if they follow them they will be unlikely to be able to remove those students for more than a few days. Our colleagues do not seem to have any difficulty in understanding why it is important for Senators to have a safe environment in which to work; Senate buildings are filled with armed guards and police, and every entrance has sentries standing duty by metal detectors. We wish our colleagues would show the same concern for having safe school environments.

The solution offered by the Gorton amendment goes straight to the point. The amendment would eliminate the double standard. All students in a school, disabled or nondisabled, would be subject to uniform disciplinary rules. All of the complex and expensive due process hearings, all of the efforts to determine if violent and disruptive behavior should be treated through more education and counseling in the classroom because it is a "manifestation" of a disability, and all of the mandated weak responses in this bill would be avoided. A kid with a gun could be kicked out of school, period. A kid who assaulted a teacher could be suspended. We support mainstreaming, but not at the expense of safety and order. Disabled students should be mainstreamed but they should also follow mainstream rules. The Gorton amendment, in just 7 lines of text, would fix perhaps the largest problem with the IDEA. We urge its acceptance.